

CENTRAL INTELLIGENCE AGENCY

INFORMATION REPORT

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SOURCE

1. Before World War II the Czechoslovak Army had three types of courts-martial, the Brigade Court-Martial, the Division Court-Martial, and the Supreme Court-Martial. During the war, however, only two courts-martial existed, the Field Court-Martial of the First Instance (Polni Soud I Stolic) and the Upper Field Court (Vrchni Polni Soud). Jurisdiction over court-martial proceedings was assumed by the Czech Army Abroad in 1941, while in England. A Field Court-Martial of the First Instance was created in the beginning of 1943. In either the latter part of 1944 or the first part of 1945, an Upper Field Court was created in the USSR. The Field Court-Martial of the First Instance tried all types of cases, including those which carried the death sentence. It was not concerned with minor infractions, such as improper dress or failure to salute, for which punishment could be meted out by the commanding officer. The Upper Field Court functioned as an appeal court and its decisions were final. Death sentences, however, had to be reviewed by President Benes, a responsibility which he vested in General Ludvik Svoboda for units of the Czech Army in the USSR.

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2. At the head of all court-martial proceedings of Field Courts-Martial of the First Instance of the Czech Army in the USSR was an officer who was subordinate to the chairman of the Upper Field Court and President BENES on legal matters and to General SVOBODA on simple administrative matters only. It was his responsibility to appoint members to court-martial boards. He could, and often did, appoint himself to a court-martial board, in which case he automatically became chairman.
3. The representative of the Czech Army in court-martial cases was the field prosecutor (Polni Prokurator), who was also on General SVOBODA's staff as legal adviser. Although not subordinate to the Chairman of a Field Court-Martial of the First Instance, the field prosecutor could not be of higher rank than the Chairman. The duties of the Field Prosecutor were as follows:
 - a. All charges brought against members of the Czech Army in the USSR came to the field prosecutor, who decided either to make an investigation of the case or request that the court do so. After an investigation had been made, he decided whether the case should be tried in court or settled by the unit commanding officer. If the case was to be brought to court, he formally informed the court and suggested an open or closed trial. The final decision on whether to hold open or closed hearings rested with the court. Most trials, however, were open, the only ones usually held in closed sessions being the cases involving military security and those involving morals charges.
 - b. The field prosecutor gave the court all the evidence collected during the investigation, a statement describing which part of the Military Criminal Code (Vojensky Trestni Zakon) was violated, and a recommendation, again according to the Military Criminal Code, of the sentence to be imposed if found guilty. He also had to list the reasons he thought the defendant guilty. The court could not impose a sentence higher than the maximum presented by the field prosecutor but could impose a sentence lower than the minimum presented by the field prosecutor.
4. For crimes carrying a sentence under one year, the defendant could defend himself or request that an officer be assigned as defense counsel. The defendant was obliged, however, to have an officer defend him for crimes which carried a sentence of over one year.
5. The composition of the Field Court-Martial of the First Instance depended upon the crime, that is:
 - a. For those crimes carrying a sentence of less than one year, the court-martial board was composed of one person, a legal officer.
 - b. For those crimes for which sentences up to five years were imposed the court-martial board consisted of one legal officer as chairman and two laymen, one an officer and the other of the same rank as the defendant.
 - c. For crimes which carried sentences of over five years, the court-martial board was composed of two legal officers, one of whom was the chairman, and one layman who had to be an officer of a rank equal to or higher than that of the defendant.
6. A pre-trial hearing was always conducted by the Field Court-Martial of the First Instance to hear the evidence gathered by the field prosecutor and to permit additional evidence to be introduced, as well as to present the defendant with the opportunity of pleading guilty or not guilty. After this the court-martial board retired

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to decide what evidence would be used in the trial. When the trial started, the chairman of the court-martial board read the evidence presented by both the field prosecutor and the defense counsel and asked both sides to comment on all details. Witnesses and experts were then called in and questioned, first by members of the court-martial board and then by the field prosecutor and the defense counsel. After the evidence had been presented and discussed and after the witnesses and experts had been interrogated, the field prosecutor and the defense counsel made their closing comments and each was permitted a rebuttal, the defense counsel always giving his comments last. The defendant was then asked for any final statement he might want to make. The court-martial board then retired and reached its verdict, giving its reasons for the verdict. If declared guilty, the defendant was given his choice: acceptance of the verdict; appeal; or three days in which to make a decision. Appeals were made to the Upper Field Court through the Field Court-Martial of the First Instance. In cases of appeal, the court-martial board had to present its written verdict and its reasons for it to both the field prosecutor and the defense counsel.

7. As mentioned above, the Upper Field Court handled only cases of appeal; it comprised three legal officers or, at times, five legal officers. The chairman of the Upper Field Court was subordinate to the head of the Legal Division of the Ministry of Defense. Upon receipt of an appeal, one of the members of this court was appointed to study the case and then report it to the Upper Field Court where it was discussed. The Upper Field Court could then do one of three things: permit the sentence to stand; call for a new trial by the Field Court-Martial of the First Instance; or change the sentence, but only in favor of the defendant. Clemency could be requested through channels: starting with the Field Court-Martial of the First Instance and passing through the Upper Field Court, the Legal Division of the Ministry of Defense, the Ministry of Defense, and finally to the President, with recommendations and comments by each of these offices. This Upper Field Court followed the Czech Army in the USSR and after the war was combined with the Upper Field Court in London and established in Prague.
8. On 1 January 1946, the field courts-martial were disbanded and a peacetime system of court-martial procedure introduced. Under this new system three types of courts-martial were created, the Brigade Court-Martial, the Division Court-Martial, and the Supreme Court-Martial. To the best of my knowledge, the procedures followed by these courts were similar to those of the courts they superseded.
 - a. Courts of the Brigade Court-Martial consisted of one legal officer and handled cases with sentences up to one year. Brigade Courts-Martial were established in the following cities: Prague, Hradec Kralove, Litomerice, Karlovy Vary, Tabor, Pilsen, Olomouc, Kromeriz, Brno, Bratislava, Banska Bystrica, Kosice, and Zilina.
 - b. The Division Court-Martial tried cases up to five years and those above five years. For cases with sentences up to five years, the board comprised one legal officer and two lay officers; for cases with sentences of over five years, the board consisted of two legal officers and one lay officer. Division Courts-Martial were located in the following cities: Prague, Hradec Kralove, Tabor, Pilsen, Olomouc, Brno, Bratislava, Banska Bystrica, and Kosice.

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- c. The Supreme Court-Martial was located in Prague and comprised four of five legal officers of at least lieutenant colonel's rank. The defendant was never present at hearings conducted by the Supreme Court-Martial, all of whose hearings were closed. Upon receipt of an appeal, one member of the Supreme Court-Martial was appointed referee to study the case and report his findings to the court at a hearing at which the prosecutor and the defense counsel were permitted to be heard.
9. In 1947, the system of courts-martial was further changed by creating three types of courts-martial, Regional, Upper, and Supreme.
- a. A Regional Court-Martial (Krajsky Voenski Soud) was established in each of the following cities: Prague, Hradec Kralove, Tabor, Pilsen, Olomouc, Brno, Bratislava, Banska Bystrica, and Kosice. These Regional Courts-Martial handled both those cases with sentences of less than one year, presided over by one legal officer, and those cases with sentences up to five years, presided over by one legal officer as chairman and two lay officers. The procedure followed was similar to that described above for similar cases tried by the Field Court-Martial of the First Instance.
- b. The three Upper Military Courts (Vrchny Voenski Soud) were set up in Prague, Brno, and Bratislava. At the head of each of these courts was a general officer who was also the administrative supervisor of the Regional Courts-Martial in his area. ILLEGIB
- (1) Those which carried sentences of over five years had a board of two legal officers and one lay officer; the trial procedure was similar to that of the war-time Field Court-Martial of the First Instance.
- (2) All appeals from the Regional Courts-Martial were heard by these Upper Military Courts. The Upper Military Court in Prague handled all appeals from the Regional Courts-Martial in Bohemia, the one in Brno handled all the appeals from Moravia, and the one in Bratislava handled all the appeals from Slovakia.
- c. One Supreme Military Court (Nivyssi Voenski Soud) was located in Prague. This Court handled all appeals from the three Upper Military Courts, its trial procedure being similar to that of the Upper Field Court during the war. 25X1X

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- a. Czech military law, which stemmed from the first part of the nineteenth century, was quite antiquated and inadequate, and some change was obviously necessary.
 - b. The spirit of the criminal law was changed to a pattern similar to that of the USSR by including such crimes as destruction of state property and economic sabotage, which were applicable to both the military and to civilians.
 - c. A third possible reason for the charge was an attempt by the Czech government to point out that both the military and the civilian population were equal in the eyes of the law and the state.

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